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(Energy)

Honorable Augustus F. Hawkins
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to submit Department of Energy views regarding H.R. 1524, as ordered reported by your committee, cited as the "Employee Polygraph Protection Act of 1985."

The Act prohibits the use of polygraph tests for hiring, discharging or disciplining employees in the private sector. The prohibitions in the bill do not apply to Federal, State or local governments. The bill also exempts consultants and contractors employed to perform intelligence or counterintelligence functions by the Department of Justice, Department of Defense, Central Intelligence Agency and National Security Agency.

The Department of Energy would oppose H.R. 1524 unless it were amended to exempt government contractor employees engaged in work related to the national defense or national security. A large percentage of the work at the Department of Energy relating to national defense and national security is performed by employees of contractors to the Department of Energy. Because contractor employees are not considered employees of the government they would ~~be exempt from~~ any polygraph tests under this legislation. We believe that the use of polygraphs should be available to Government contractors performing work related to national defense or national security.

not be subject to

The following amendment is suggested:

Insert the following new subsection on Page 6, between lines 7 and 8.

"(d) Exemption for Employees of United States Government Contractors.

"This Act shall not prohibit the administration of any lie detector test to an employee of a contractor of the United States who is engaged in the performance of any work for the government related to the national security. For purposes of this section, contractor

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includes a contractor or cost reimbursement contractor of any tier."

Enactment of H.R. 1524 would not have a significant impact upon the budgetary requirements of the Department of Energy.

The Office of Management and Budget has advised that, from the standpoint of the President's program, there is no objection to presentation of this report for the consideration of the Committee.

Sincerely,

J. Michael Farrell
General Counsel